

# SENTENCING COMMISSION

## MINUTES

<b>Committee:</b>	<b>SENTENCING COMMISSION</b>
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<b>Date:</b>	Tuesday, Nov. 5, 2002	<b>Time:</b>	12:00 PM	<b>Place:</b>	Matheson Courthouse Conference Rm A
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<b>Members Present</b>	David Bateman, Judge Terry Christiansen, K.S. Cornaby, Mary S. Corporon, John Hill, Ed McConkie, G. Fred Metos, Chris Mitchell, Judge David Mower, Brian Namba, Judge Gregory K. Orme, Chief Ed Rhoades, Michael Sibbett, Sy Snarr, Kirk Torgenson, Russ Van Vleet
<b>Members Excused</b>	Rep. Cindy Beshear, Paul Boyden, Blake Chard, Dr. Judy Engen, Marlene Gonzalez, Joel Millard, Judge Sterling Sainsbury, Sen. Terry R. Spencer, Sen. Alicia Suazo, Rep. Mike Thompson, Judge Robert S. Yeates
<b>Staff</b>	Ron Gordon, Mike Haddon, Jo Lynn Kruse

<b>Visitors</b>	Leif Rundquist
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<b>Agenda Item:</b>	<b>Welcome and Approval of Minutes</b>
Notes:	Kay Cornaby called the meeting to order and welcomed everyone. Mike Sibbett <b>motioned</b> to accept the September minutes. Kirk Torgenson <b>seconded</b> and the motion <b>passed unanimously</b> .

<b>Agenda Item:</b>	<b>Report on Mandatory Prison Sex Offenses – Mike Haddon, Leif Rundquist</b>
Notes:	<p>The purpose of the report was to assess the charging patterns of mandatory prison sex offenses that were established under SB 26 in 1996. There are two parts of the report: the data side and interviews to determine how the law is used and what impacts plea bargaining decisions.</p> <p>SB 26 did the following:          Eliminated mandatory minimum sentences for sex offenses against children          Transitioned to mandatory prison offenses without minimum duration          Included a non-mandatory prison offense of attempted aggravated sexual abuse of a child as a plea negotiation option that maintains a lifetime maximum sentence without mandatory prison</p> <p>The data was extracted from CORIS (courts) database. CORIS does not explicitly identify plea negotiations. The data analysis looked for evidence of negotiations in terms of charge reductions and charge dropping.</p> <p>There were 905 cases studied. About 57% of them could potentially receive a lifetime top.</p> <ul style="list-style-type: none"> <li>•After removing cases where all charges were dismissed, nearly half (48.3%) resulted in an adjudication for a mandatory prison offense</li> <li>•After removing cases where all charges were dismissed, 65.9% of the cases resulted in an adjudication for a charge with a lifetime top.</li> <li>•14.2% of the cases did have at least one adjudication for attempted aggravated sexual abuse of a child.</li> </ul> <ul style="list-style-type: none"> <li>•The most common mandatory prison sex offenses charged were aggravated sexual abuse of a child (52.9%) and sodomy on a child (20.8%)</li> </ul>

	<ul style="list-style-type: none"> <li>•About half of the cases (50.4%) had the initial mandatory prison charge modified. Of these, 55% retained a lifetime top after charge modification.</li> <li>•Of the cases retaining at least one charge for a mandatory prison offense, 72.2% retained a mandatory prison offense, meaning it was not dismissed. 84.5% retained a lifetime top offense.</li> <li>•Nearly two-thirds plead guilty to the mandatory prison charges, while a little more than a third plead not guilty. Three quarters of those pleading not guilty had the charges dismissed.</li> <li>•After removing charges that were dismissed, 86.3% plead guilty or no contest, while only 13.7% plead not guilty.</li> <li>•Looking at the 13.7% who plead not guilty, nearly 80% were eventually found guilty.</li> </ul> <p><u>Prosecutor Interviews</u></p> <p>Interviews sought information on how prosecutors view their role in plea negotiating sex offense cases, what factors are involved in the initial determination of a charge or charges, plea negotiation strategies, the effect of prosecutorial experience and resources, and perceived gaps in the system with regard to effective prosecution of alleged sex offenders. The interviews covered the following areas:</p> <ol style="list-style-type: none"> <li>1. Determining an Initial Charge</li> <li>2. To Dismiss or Reduce?</li> <li>3. Maintaining a 1<sup>st</sup> Degree Conviction</li> <li>4. Attempted Aggravated Sexual Abuse of a Child</li> <li>5. Sex Offender Registration: Effect on Sexual Offender Problem</li> <li>6. Sex Offender Registration: Areas of Improvement</li> <li>7. Gaps in the System: Offender Prosecution</li> <li>8. Impact of Plea Negotiation on Treatment Options</li> </ol> <p>Ed McConkie <b>motioned</b> to approve the report Russ Van Vleet <b>seconded</b> and it <b>passed unanimously</b>.</p>
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<b>Agenda Item:</b>	<b>Guidelines Revision Subcommittee Report – Chris Mitchell</b>
Notes:	<p><b>Financial crimes</b></p> <p>The committee does not recommend creating a special matrix for securities fraud offenders</p> <p>The committee does recommend adding the following as aggravating factors:</p> <ol style="list-style-type: none"> <li>1. Many victims</li> <li>2. Exploitation of a position of trust</li> <li>3. Unusually large amount of money</li> <li>4. Receipt of money representing equity in a person's home or a withdrawal from a person's retirement account</li> </ol> <p>Due to time constraints, the Commission decided to continue the Guidelines Revision Subcommittee Report at the next meeting.</p>

**The next meeting is scheduled for Wednesday, December 4, 2002 at noon, Matheson Courthouse, Conference Room B & C**

Minutes prepared by Jo Lynn Kruse - Executive Secretary CCJJ